

TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
July 6, 2010

The Tippecanoe County Commissioners met on Tuesday, July 6, 2010 at 10:00 a. m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President John L. Knochel, and Commissioner Thomas P. Murtaugh. Also present were: Attorney David W. Luhman, Auditor Jennifer Weston, Commissioner's Assistant Frank Cederquist, and Secretary Kay Muse. Absent was: Vice President David S. Byers.

APPROVAL OF MINUTES

- Commissioner Murtaugh moved to approve the minutes of the June 21, 2010 regular meeting, second by Commissioner Knochel; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHERS

Commissioner's Assistant Frank Cederquist recommended approval of accounts payable vouchers for June 23, 24, 25, 30, and July 1, 2, 6, 2010. The Auditor's name has been removed from two claims for an interpreter for Superior Court 6.

- Commissioner Murtaugh moved to approve the accounts payable vouchers as presented, second by Commissioner Knochel; motion carried.

REZONES

Z-2431—Stonebraker Properties LLC (I3 to GB); ORDINANCE 2010-10-CM

- Commissioner Murtaugh moved to hear Rezone Z-2431, Stonebraker Properties, LLC I3 to GB, second by Commissioner Knochel; motion carried.

(quote)

June 17, 2010
 Ref. No.: 10-170 (correction)

Tippecanoe County Commissioners
 20 North 3rd Street
 Lafayette, IN 47901

CERTIFICATION

RE: Z-2431—STONEBRAKER PROPERTIES, LLC. (I3 to GB):

Petitioner is requesting rezoning of 10.042 acres for a landscaping business, located at 4418 East Old 350 South, between CR 350 South and Old 350 South, just east of US 52 South in Wea 12 (NW) 22-4.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on June 16, 2010 the Area Plan Commission of Tippecanoe County voted 8 yes - 0 no on the motion to rezone the subject real estate from I3 to GB. Therefore, the Area Plan Commission of

Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their July 6, 2010 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,

Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosures: Staff Report & Ordinances

cc: John Stonebraker
Craft Land Development
Daniel Teder
Ron Highland, Tippecanoe County Building Commissioner

(unquote)

Area Plan Director Sallie Fahey stated that in the certification letter dated June 17, 2010 from the Plan Commission to the County Commissioners a typographical error exists stating that the Plan Commission recommends to the Lafayette City Council; it should say to the County Commissioners. The Planning Commission will send a corrected certification letter to the Commissioners. Director Fahey said that Attorney Luhman has assured her that the error is not a fatal flaw for the hearing.

Attorney Dan Teder representing John Stonebraker said that Mr. Stonebraker would be happy to answer any questions the Commissioners may have concerning this rezone request. Attorney Teder stated that Mr. Stonebraker and his family operate this business and did receive a unanimous yes vote from the Area Plan Commission. Mr. Stonebraker is seeking a re-zone from I3 to GB. The re-zone will accommodate a retail garden center that will augment Mr. Stonebraker's landscaping business. The ten-acre site is divided into two five-acre parcels, the two parcels border Old CR 350 and Veterans Memorial Parkway. Mr. Stonebraker's residence, a large barn, parking area and acreage does border the property along with a, a chemical company and a tractor sales/service business. Mr. Stonebraker's property is bordered on the east by a tire center and a trucking company that is zoned I3. A vacant field that is approximately 100 feet wide is to the west, and next to that field is zoned GB. To the south of the property, Rosewalker, Baker Electric, and a strip of seven or eight single-family homes that are zoned agriculture. Attorney Teder stated that it is his opinion that this re-zone will not offend the comprehensive plan for this area. Going on to say that the four corners of US-52 and Veteran's Memorial Parkway are zoned GB. In recent years three tracts on US-52, south of Mr. Stonbraker's property, was zoned GB. The southeast corner of US-52 and Veteran's Memorial Parkway is also GB and is approximately 150 feet from this site. Attorney Teder stated this is not a spot zoning and will not affect the larger I3 tracts to the east or to the west. The only businesses that should be affected by this re-zoning are adult entertainment or fast food restaurants. Attorney Teder added that there has been no objection from surrounding property owners. Attorney Teder read one of nine letters of support. Baker Electric's letter of support stated they do not believe this will not adversely affect Baker Electric, its customers, neighbors, or affect the traffic pattern. The letter also states that Mr. Stonebraker has greatly improved the area by renovating a neglected piece

of property. Attorney Teder added that Mr. Stonebraker anticipates employing 2 to 3 employees in the next 1 to 2 years.

Auditor Weston recorded the vote:

Knochel	Yes
Murtaugh	Yes
Byers	Absent

Ordinance 2010-10-CM passes 2-0.

AREA PLAN COMMISSION–Sallie Fahey

Small and Rural Transportation Planning Assistance Program

Area Plan Director Sallie Fahey stated that Area Plan has been working with Carroll County officials, the City of Delphi, and the towns of Camden and Flora to explore if it was possible to do rural transportation planning under an INDOT grant. Area Plan has received rural transportation funds approval for \$39,800. INDOT's 80% share will be \$31,840 and Carroll County will pay the remaining 20% of \$ 7,960. Director Fahey stated that a special fund has been set up through the Auditor's Office for these funds to be deposited. This will assure that Tippecanoe County funds and Carroll County funds are not co-mingled. A memorandum of agreement has been prepared for the four jurisdictions in Carroll County and reviewed by Plan Commission Attorney Jay Seeger. Director Fahey stated that she is requesting approval for the Auditor to manage these funds. INDOT is anxious to see that these rural counties have transportation planning and are looking to the 13 MPO's in the state to help accomplish that. Some of the work that Area Plan will be doing for Carroll County includes setting up an administrative committee and technical committee, doing traffic counts, and analyzing the traffic count data. Area Plan will also be working on their federal aid classification application, which is the basis for federal funding that can be used for highway projects.

- Commissioner Murtaugh moved to authorize the Auditor to administer all funds for the Rural Transportation Planning Assistance Program as presented, second by Commissioner Knochel; motion carried.

HIGHWAY–Opal Kuhl

Opening of Bids for South River Road Widening and Resurfacing Project

Director Kuhl noted that this project is Phase III and goes from US 231 to Fort Ouiatenon. This will widen the road 2-feet on each side, adding a shoulder and a trail on the south side of the road. Work will begin this season with the re-location of utilities and fences. The greater part of the work will be done next construction season.

Attorney Dave Luhman opened the bids.

Milestone	\$2,379,743.59
Reith Riley	\$3,189,039.00

Attorney Luhman recommended the bids be taken under advisement.

- Commissioner Murtaugh moved to take the bids for the South River Road Widening and Resurfacing Project under advisement as presented, second by Commissioner Knochel; motion carried.

INDOT/LPA Agreement for Bridge Inspection Contract

Director Kuhl presented a Local Project Agreement (LPA) with INDOT for the National Bridge Inspection Safety (NBIS) program. This is a standard agreement that the County signs with INDOT on federal funded projects. The County is responsible for 20 % of the cost, with the federal government reimbursing 80%. The original contract with Stuart Kline was for \$279,860 for a period of four years.

- Commissioner Murtaugh moved to approve the Agreement for Bridge Inspection Safety as presented, second by Commissioner Knochel; motion carried.

Bridge #U209 Project–Non-Reimbursable Utility Agreements from Verizon North, Inc., Paetec, and Tipmont REMC

Director Kuhl presented Non-Reimbursable Utility Agreements from Verizon North, Inc., Paetec, and Tipmont REMC for approval. Director Kuhl stated that these agreements are for utilities that are located in the Right-of-Way, adding they also state where the utilities will be located. There are no funds involved in the agreements.

- Commissioner Murtaugh moved to approve the Non-Reimbursable Utility Agreements with Verizon North, Inc., Paetec, and Tipmont REMC as presented, second by Commissioner Knochel; motion carried.

INDOT Final Inspection Report for Bridge Deck Replacement on CR 900 East

Director Kuhl presented the Final Inspection Report for Bridge Deck Replacement on CR 900 East. This is a fiber-reinforced bridge that the County did with INDOT and Purdue University Research. Federal funds were used in this project. Director Kuhl added that the Inspection Report was completed in April and it did pass inspection.

- Commissioner Murtaugh moved to approve the Final Inspection Report for Bridge Deck Replacement on CR 900 East as presented, second by Commissioner Knochel; motion carried.

Amendment No. 2 from American Structurepoint for Lindberg Road Project

Director Kuhl presented Amendment No. 2 from American Structurepoint for the Lindberg Road Project for approval in the amount of \$21,000. This is a not-to-exceed amount and is for the Right-of-Way, Engineering, and Land Acquisition. The County will not need to acquire any additional land but some legal descriptions need to be re-written concerning the relocation of the trail, adding the County will also be doing work on the driveway into the celery bog. Tippecanoe County is paying for the construction only. West Lafayette will reimburse the County these costs since West Lafayette Parks Foundation, West Lafayette Parks Department, and Purdue University own a portion of the property.

- Commissioner Murtaugh moved to approve Amendment #2 from American Structurepoint as presented, second by Commissioner Knochel; motion carried.

LPA Agreement for the Warning Sign Replacement Project

Director Kuhl presented a Local Project Agreement (LPA) for the Warning Sign Replacement Project for approval. Director Kuhl stated that this agreement with INDOT is for Highway Safety Improvement Project (HSIP) funds. It is in the amount of \$20,000 and will be used to replace warning signs. It is a 90/10 split. Director Kuhl added that \$20,000 is the 90% share and the County will be responsible for the other 10%.

- Commissioner Murtaugh moved to approve the LPA Agreement for the Warning Sign Replacement Project as presented, second by Commissioner Knochel; motion carried.

Permit to Close/Block a County Road for Buckingham Drive on July 31, 2010

Director Kuhl presented a Permit to Close a County Road for Buckingham Drive. This will be on July 31, 2010 from 7:45 a.m. until 4:45 p.m. This is an annual block party and has worked out well in the past.

- Commissioner Murtaugh moved to approve the Permit to Close a County Road for Buckingham Drive as presented, second by Commissioner Knochel; motion carried.

GRANTS—Laurie Wilson

Grant Facilitator Laurie Wilson requested permission to apply to the Indiana Judicial Center for a scholarship grant on behalf of Court Services. This will support training for three employees for the Change Company. The total cost of the project is \$505.20; the grant will pay \$404.16 of that amount with Court Services providing the remaining 20% match.

- Commissioner Murtaugh moved to grant permission to apply to the Indiana Judicial Center for a scholarship grant for Court Services as presented, second by Commissioner Knochel; motion carried.

UNFINISHED BUSINESS

Commissioner Knochel stated that the Commissioners have received several calls and inquires concerning the Monitor School property and asked Attorney Dave Luhman to state the status of that property.

Attorney Dave Luhman stated that New Directions Inc. owns the Monitor School building and are in the process of bankruptcy. An attorney does represent New Directions and if there is an interest in purchasing that property, the attorney needs to be contacted.

Commissioner Knochel stated that the only interest the County has in that property is for the cost of knocking down of the walls. Building Commissioner Ron Highland stated that he would be contacting the Commissioners with the cost.

NEW BUSINESS

Auditor Weston stated that the 2011 Salary Statements will be on file in the Auditor's Office, however the Commissioners will receive an electronic copy for review.

REPORTS ON FILE

Mail & Duplicating
Crystal Creek Kennel
Saint Elizabeth Regional Health
Parks & Recreation Board
Building Commission
Wabash River Heritage Corridor Commission
Tippecanoe County Public Library
Treasurer Office

PUBLIC COMMENT

Jim Pairitz, 8323 W 1200 S, West Point—presented the Commissioners with a request for a moratorium concerning the setbacks for Commercial WECS. Mr. Pairitz stated that he does support the changes to the UZO, which will be voted on at tomorrow’s Area Plan Commission meeting July 7, 2010. It does require the setback to be from the property line versus the residence. Mr. Pairitz stated that he wanted to speak about the request made at the June 21, 2010 meeting for the moratorium. Mr. Pairitz said that once it is established where the setback is measured from, the distance of the setback needs to be reviewed. The Commissioners have the authority to add a setback to the County’s ordinance, as the Commissioners deem necessary. The current distance of 1000 feet is standard in the industry. The setback standard; established by wind industry recommendations and has become the accepted standard. However, as the installation rate of turbines in Indiana increases more and more people will be living near the turbines. Because of increasing reports of problems from people who live near turbines, the request is for a moratorium to be placed on accepting any new petitions from developers that would come before the board of zoning appeals, until the distance of the setback can be reviewed. An example of why 1000 feet is inappropriate is septic systems setbacks, we have learned over time that they need to be further than originally planned. WECS deserves the same amount of consideration; because once the turbines are installed they will not be removed. The Area Plan Committee is considering putting a group together of the different stakeholders to discuss this matter and come up with a recommendation. That is the reason for requesting a moratorium. Mr. Pairitz said that a 1000-foot setback is incorrect because neighboring properties have equal rights to the wind energy available on their land. The typical distance that Invenergy separates their turbines is 10 rotor diameters to prevent interference between turbines. If the 10-rotor diameter were split, it would require the setback to be at a distance of 5-rotor diameters from the property line. In addition, Invenergy uses setbacks of greater than 1000 feet. These are just a few examples of why the setback distance needs to be reviewed. Mr. Pairitz asked the Commissioners if they were willing to consider this request for a moratorium.

Commissioner Murtaugh stated that at this point he was not prepared to make a motion. He added that the Commissioners have received feedback from both sides of the issue and are open to fine tuning the ordinance as needed, but does feel the County needs to move forward.

Mr. Pairitz voiced his concern with two other issues concerning Ordinance 2010-02-CM. Page 18 of Chapter 161 the dBC limit was removed, that portion of sound that is measured by the dBA does not accurately collect the total sound energy that is produced by a wind turbine. Mr. Pairitz added that the dBC does accurately collect the total sound energy, adding that more detail is needed on how sound should be measured. Moreover, it is just as important how it is measured, as how you define the limit. Mr. Pairitz added that one thing missing is “how to handle a complaint”.

Connie Harper, 5801 Sleeper Road, Tippecanoe County—stated that although she understands and appreciates the growing need for alternative energy sources, she is concerned about the possible decrease in property values and the definite aesthesis thereof. Ms. Harper went on to say, “with the height of the structures at approximately 400 feet tall, the constant noise both day and night and the expense of implementing these structures on a rural property does not seem to be a frugal venture”. Ms. Harper added that she has had the opportunity to experience wind energy at Mintonye Elementary School where she teaches, adding the wind turbine at the school has proven to add supplemental energy for the building and has proven to be an educational asset for learning. However, there are concerns about the responsibility of wind companies in the face of unforeseen consequences, such as a shorter life span of the wind turbines than anticipated. The County is then left with a countryside littered with unsightly steel marring the landscape. Ms. Harper stated that health concerns as a result of the implementation of wind farms are still debatable. Ms. Harper said that in the data collected there are numerous claims of sleep deprivation, chronic headaches, and a feeling of stress as a ramification caused by the existence of wind

farms. Ms. Harper asked the Commissioners “is it prudent to allow the numerous number of wind turbines to be used in our community at this time? I am not opposed to this alternative energy source, but I am opposed to the mass number of wind turbines that are anticipating to be functioning within our Southern Tippecanoe County and later Northern County”.

Paul Wright, *West Point*—said that he has looked at Monitor School and it appears to be safe. The concern is where the County goes from here. Mr. Wright added that he did not want to see it turned into a park, adding the County has enough parks to maintain. Mr. Wright inquired to the status of the lawsuit concerning Lindberg Road. Highway Director Kuhl stated that lawsuit was between INDOT and a contractor and since it does not involve the County, the status is unknown. Mr. Wright stated that the celery bog as a nature park has cost the County a lot of money, same as the amphitheatre. Mr. Wright asked that the long-term ramifications of these projects be considered.


Ron Highland, *Tippecanoe County Building Commissioner*—said the cost of the Monitor project is \$5,260. Mr. Highland went on to say that, the Tendam structure will be taken down Thursday. Mr. Highland added that the County has lost an outstanding member of Tippecanoe County, citing Steve Murray’s passage, and offered his condolences to his friends and family.

Commissioner Murtaugh motion to adjourn.

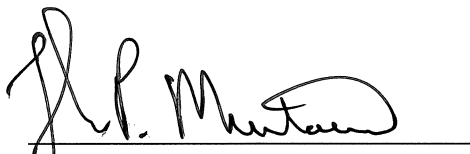
**BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE**



John L. Knochel, President

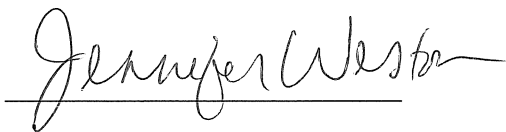


David S. Byers, Vice President



Thomas P. Murtaugh, Member

ATTEST:



Jennifer Weston, Auditor